

SENATE BILL 869

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2004 Regular Session  
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CF HB 1308

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By: **Senators Middleton, Astle, Britt, Brochin, Exum, Forehand, Frosh,  
Garagiola, Gladden, Grosfeld, Hogan, Jones, Kelley, McFadden, Pinsky,  
Ruben, and Teitelbaum**

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Committee Report: Favorable with amendments  
Senate action: Adopted with floor amendments  
Read second time: April 7, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Electricity Regulation - Renewable Energy Portfolio Standard and Credit**  
3 **Trading - Maryland Renewable Energy Fund**

4 FOR the purpose of requiring the Public Service Commission to establish renewable  
5 energy portfolio standards for certain retail electricity sales during certain  
6 years; requiring certain standards to be met by the accumulation of renewable  
7 energy credits; providing for the eligibility of energy from certain sources under  
8 certain circumstances; providing additional credit for energy from certain  
9 sources for certain periods; ~~limiting the credits available from certain sources~~  
10 ~~under certain circumstances~~; allowing certain ~~customers~~ persons to obtain and  
11 apply certain credits in a certain manner; providing that certain persons who  
12 surrender certain credits retain all rights and title to certain attributes;  
13 requiring electricity suppliers to submit a certain report each year to the  
14 Commission; authorizing certain electricity suppliers to demonstrate  
15 compliance in certain manners; requiring electricity suppliers to pay certain  
16 compliance fees under certain circumstances; providing for the recovery of  
17 certain costs under certain circumstances; establishing a Maryland Renewable  
18 Energy Fund to be administered by the Maryland Energy Administration under  
19 Commission oversight for certain purposes; requiring the State Treasurer and  
20 the State Comptroller to perform certain functions related to the Fund;  
21 authorizing the Fund to be used for loans and grants to eligible projects; limiting  
22 the amount of funds that may be used for certain administrative expenses;  
23 requiring the Commission to review and approve certain applications; requiring  
24 the Commission to establish and maintain a renewable electricity trading  
25 system that includes a certain registry; authorizing the Commission to contract

1 with another entity for a certain purpose; requiring the registry to provide  
2 certain information to certain persons; authorizing the sale and transfer of  
3 renewable energy credits; establishing a time limit for the existence of  
4 renewable energy credits; authorizing the Commission to impose an  
5 administrative fee on certain transactions; providing that the Commission has  
6 certain power and authority over electricity suppliers for certain purposes;  
7 requiring the Commission to report to the General Assembly each year on  
8 certain matters; requiring the Commission to establish a technical advisory  
9 group for certain purposes; requiring the Commission to adopt certain  
10 regulations by certain dates; requiring the Office of Legislative Audits to  
11 conduct a certain performance audit of the Maryland Renewable Energy Fund;  
12 requiring the Office to report the results of the audit to the General Assembly by  
13 a certain date; requiring the Administration, in cooperation with the Maryland  
14 Department of Agriculture, to enhance the State's system of monitoring the  
15 production and volume of poultry litter for certain purposes; requiring the  
16 Commission to provide a certain status report to the Governor and the General  
17 Assembly on or before a certain date; requiring the Commission to review  
18 certain standards and matters and report its recommendations to the Governor  
19 and the General Assembly on or before a certain date; specifying intents and  
20 findings of the General Assembly; defining certain terms; repealing certain  
21 provisions relating to a requirement that an electric company continue to  
22 purchase certain electricity under certain contracts and to provide a certain  
23 percentage of renewable energy sources; repealing an obsolete reporting  
24 requirement; providing for a delayed effective date for certain provisions of this  
25 Act; and generally relating to the establishment of renewable energy portfolio  
26 standards, a renewable electricity credit trading system, and the Maryland  
27 Renewable Energy Fund.

28 BY repealing and reenacting, without amendments,  
29 Article - Public Utility Companies  
30 Section 1-101(a) and (j)  
31 Annotated Code of Maryland  
32 (1998 Volume and 2003 Supplement)

33 BY repealing and reenacting, with amendments,  
34 Article - Public Utility Companies  
35 Section 7-516  
36 Annotated Code of Maryland  
37 (1998 Volume and 2003 Supplement)

38 BY adding to  
39 Article - Public Utility Companies  
40 Section 7-701 through 7-713 to be under the new subtitle "Subtitle 7.  
41 Renewable Energy Portfolio Standard"  
42 Annotated Code of Maryland  
43 (1998 Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Public Utility Companies**

4 1-101.

5 (a) In this article the following words have the meanings indicated.

6 (j) (1) "Electricity supplier" means a person:

7 (i) who sells:

8 1. electricity;

9 2. electricity supply services;

10 3. competitive billing services; or

11 4. competitive metering services; or

12 (ii) who purchases, brokers, arranges, or markets electricity or  
13 electricity supply services for sale to a retail electric customer.

14 (2) "Electricity supplier" includes an electric company, an aggregator, a  
15 broker, and a marketer of electricity.

16 (3) "Electricity supplier" does not include:

17 (i) the following persons who supply electricity and electricity  
18 supply services solely to occupants of a building for use by the occupants:

19 1. an owner/operator who holds ownership in and manages  
20 the internal distribution system serving the building; or

21 2. a lessee/operator who holds a leasehold interest in and  
22 manages the internal distribution system serving the building; or

23 (ii) a person who generates on-site generated electricity.

24 **SUBTITLE 7. RENEWABLE ENERGY PORTFOLIO STANDARD.**

25 7-701.

26 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
27 INDICATED.

28 (B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

29 (C) "FUND" MEANS THE MARYLAND RENEWABLE ENERGY FUND  
30 ESTABLISHED UNDER ~~§ 7-706~~ § 7-707 OF THIS SUBTITLE.

1 (D) "INDUSTRIAL PROCESS LOAD" MEANS THE CONSUMPTION OF  
2 ELECTRICITY BY A MANUFACTURING PROCESS AT AN ESTABLISHMENT CLASSIFIED  
3 IN THE MANUFACTURING SECTOR UNDER THE NORTH AMERICAN INDUSTRY  
4 CLASSIFICATION SYSTEM, CODES 31 THROUGH 33.

5 (E) "OLD GROWTH TIMBER" MEANS TIMBER FROM A FOREST:

6 (1) AT LEAST 5 ACRES IN SIZE WITH A PREPONDERANCE OF OLD TREES,  
7 OF WHICH THE OLDEST EXCEED AT LEAST HALF THE PROJECTED MAXIMUM  
8 ATTAINABLE AGE FOR THE SPECIES; AND

9 (2) THAT EXHIBITS SEVERAL OF THE FOLLOWING CHARACTERISTICS:

10 (I) SHADE-TOLERANT SPECIES ARE PRESENT IN ALL AGE AND  
11 SIZE CLASSES;

12 (II) RANDOMLY DISTRIBUTED CANOPY GAPS ARE PRESENT;

13 (III) A HIGH DEGREE OF STRUCTURAL DIVERSITY CHARACTERIZED  
14 BY MULTIPLE GROWTH LAYERS REFLECTING A BROAD SPECTRUM OF AGES IS  
15 PRESENT;

16 (IV) AN ACCUMULATION OF DEAD WOOD OF VARYING SIZES AND  
17 STAGES OF DECOMPOSITION ACCOMPANIED BY DECADENCE IN LIVE DOMINANT  
18 TREES IS PRESENT; AND

19 (V) PIT AND MOUND TOPOGRAPHY CAN BE OBSERVED.

20 (F) "PJM REGION" MEANS THE CONTROL AREA ADMINISTERED BY THE PJM  
21 INTERCONNECTION, INC., AS THE AREA MAY CHANGE FROM TIME TO TIME.

22 (G) "POULTRY LITTER" MEANS THE FECAL AND URINARY EXCRETIONS OF  
23 POULTRY, INCLUDING WOOD SHAVINGS, SAWDUST, STRAW, RICE HULLS, AND OTHER  
24 BEDDING MATERIAL FOR THE DISPOSITION OF MANURE.

25 (E) (H) (1) "QUALIFYING BIOMASS" MEANS A ~~SOLID~~, NONHAZARDOUS,  
26 ORGANIC MATERIAL THAT IS AVAILABLE ON A RENEWABLE OR RECURRING BASIS,  
27 AND IS:

28 (I) WASTE MATERIAL THAT IS SEGREGATED FROM ~~OTHER SOLID~~  
29 INORGANIC WASTE MATERIAL AND IS DERIVED FROM SOURCES INCLUDING:

30 1. EXCEPT FOR OLD GROWTH TIMBER, ANY OF THE  
31 FOLLOWING FOREST-RELATED RESOURCES:

32 A. MILL RESIDUE, EXCEPT SAWDUST AND WOOD SHAVINGS;

33 B. PRECOMMERCIAL SOFT WOOD THINNING;

34 C. SLASH;

- 1 D. BRUSH; OR
- 2 E. YARD WASTE;
- 3 2. A PALLET, CRATE, OR DUNNAGE;
- 4 3. AGRICULTURAL AND SILVICULTURAL SOURCES,  
5 INCLUDING TREE CROPS, VINEYARD MATERIALS, GRAIN, LEGUMES, SUGAR, AND  
6 OTHER CROP BY-PRODUCTS OR RESIDUES; OR
- 7 4. GAS PRODUCED FROM THE ANAEROBIC DECOMPOSITION  
8 OF ANIMAL WASTE OR POULTRY WASTE; OR

9 (II) A PLANT THAT IS CULTIVATED EXCLUSIVELY FOR PURPOSES  
10 OF BEING USED AT A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE SOURCE  
11 TO PRODUCE ELECTRICITY.

12 (2) "QUALIFYING BIOMASS" INCLUDES BIOMASS LISTED IN PARAGRAPH  
13 (1) OF THIS SECTION THAT IS USED FOR CO-FIRING, SUBJECT TO ~~§ 7-704(F)~~ § 7-704(E)  
14 OF THIS SUBTITLE.

15 (3) "QUALIFYING BIOMASS" DOES NOT INCLUDE:

16 (I) UNSEGREGATED SOLID WASTE OR POSTCONSUMER  
17 WASTEPAPER; OR

18 (II) AN INVASIVE EXOTIC PLANT SPECIES.

19 ~~(F) "PJM REGION" MEANS THE CONTROL AREA ADMINISTERED BY THE PJM  
20 INTERCONNECTION, INC., AS THE AREA MAY CHANGE FROM TIME TO TIME.~~

21 ~~(G)~~ (I) "RENEWABLE ENERGY CREDIT" OR "CREDIT" MEANS A CREDIT  
22 EQUAL TO THE ~~ENVIRONMENTAL~~ GENERATION ATTRIBUTES OF 1 MEGAWATT-HOUR  
23 OF ELECTRICITY THAT IS DERIVED FROM A TIER 1 RENEWABLE SOURCE OR A TIER 2  
24 RENEWABLE SOURCE THAT IS LOCATED:

25 (1) IN THE PJM REGION OR IN A STATE THAT IS ADJACENT TO THE PJM  
26 REGION; OR

27 (2) OUTSIDE THE AREA DESCRIBED IN ITEM (1) OF THIS SUBSECTION  
28 BUT IN A CONTROL AREA THAT IS ADJACENT TO THE PJM REGION, IF THE  
29 ELECTRICITY IS DELIVERED INTO THE PJM REGION.

30 ~~(H)~~ (J) "RENEWABLE ENERGY PORTFOLIO STANDARD" OR "STANDARD"  
31 MEANS THE PERCENTAGE OF ELECTRICITY SALES AT RETAIL IN THE STATE THAT IS  
32 TO BE DERIVED FROM TIER 1 RENEWABLE SOURCES AND TIER 2 RENEWABLE  
33 SOURCES IN ACCORDANCE WITH § 7-703(B) OF THIS SUBTITLE.

34 (K) "RENEWABLE ON-SITE GENERATOR" MEANS A PERSON WHO GENERATES  
35 ELECTRICITY ON SITE FROM A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE  
36 SOURCE FOR THE PERSON'S OWN USE.

1     ~~(H)~~     (L)     "TIER 1 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE  
2 FOLLOWING TYPES OF ENERGY SOURCES:

3             (1)     SOLAR;

4             (2)     WIND;

5             (3)     QUALIFYING BIOMASS;

6             (4)     METHANE FROM THE ANAEROBIC DECOMPOSITION OF ORGANIC  
7 MATERIALS IN A LANDFILL OR WASTEWATER TREATMENT PLANT;

8             (5)     GEOTHERMAL;

9             (6)     OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND  
10 THERMAL DIFFERENCES; ~~AND~~

11            (7)     A FUEL CELL THAT PRODUCES ELECTRICITY FROM A TIER 1  
12 RENEWABLE SOURCE UNDER ITEM (3) OR (4) OF THIS SUBSECTION; AND

13            (8)     A SMALL HYDROELECTRIC POWER PLANT OF LESS THAN 30  
14 MEGAWATTS IN CAPACITY THAT IS LICENSED OR EXEMPT FROM LICENSING BY THE  
15 FEDERAL ENERGY REGULATORY COMMISSION.

16     ~~(H)~~     (M)     "TIER 2 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE  
17 FOLLOWING TYPES OF ENERGY SOURCES:

18            (1)     HYDROELECTRIC POWER OTHER THAN PUMP STORAGE  
19 GENERATION;

20            (2)     INCINERATION OF POULTRY LITTER, IF THE MARYLAND ENERGY  
21 ADMINISTRATION AND THE MARYLAND DEPARTMENT OF AGRICULTURE DETERMINE  
22 THAT THERE IS A SUFFICIENT QUANTITY OF POULTRY LITTER AVAILABLE FOR THE  
23 ECONOMICAL VIABILITY OF ANY EXISTING AND OPERATING ENTITY THAT IS SITED  
24 ON THE DELMARVA PENINSULA AND THAT, AS OF JULY 1, 2004, PROCESSES AND  
25 PASTEURIZES CHICKEN LITTER AS FERTILIZER; AND

26            ~~(H)~~     (3)     WASTE-TO-ENERGY.

27 7-702.

28     (A)     IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

29            (1)     RECOGNIZE THE ECONOMIC, ENVIRONMENTAL, FUEL DIVERSITY,  
30 AND SECURITY BENEFITS OF RENEWABLE ENERGY RESOURCES;

31            (2)     ESTABLISH A MARKET FOR ELECTRICITY FROM THESE RESOURCES  
32 IN MARYLAND; AND

33            (3)     LOWER THE COST TO CONSUMERS OF ELECTRICITY PRODUCED  
34 FROM THESE RESOURCES.

1 (B) THE GENERAL ASSEMBLY FINDS THAT:

2 (1) THE BENEFITS OF ELECTRICITY FROM RENEWABLE ENERGY  
3 RESOURCES, INCLUDING LONG-TERM DECREASED EMISSIONS, A HEALTHIER  
4 ENVIRONMENT, INCREASED ENERGY SECURITY, AND DECREASED RELIANCE ON AND  
5 VULNERABILITY FROM IMPORTED ENERGY SOURCES, ACCRUE TO THE PUBLIC AT  
6 LARGE; AND

7 (2) ELECTRICITY SUPPLIERS AND CONSUMERS SHARE AN OBLIGATION  
8 TO DEVELOP A MINIMUM LEVEL OF THESE RESOURCES IN THE ELECTRICITY SUPPLY  
9 PORTFOLIO OF THE STATE.

10 7-703.

11 (A) (1) (I) THE COMMISSION SHALL IMPLEMENT A RENEWABLE ENERGY  
12 PORTFOLIO STANDARD THAT, EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS  
13 SUBSECTION, APPLIES TO ALL RETAIL ELECTRICITY SALES IN THE STATE BY  
14 ELECTRICITY SUPPLIERS.

15 (II) IF THE STANDARD BECOMES APPLICABLE TO ELECTRICITY  
16 SOLD TO A CUSTOMER AFTER THE START OF A CALENDAR YEAR, THE STANDARD  
17 DOES NOT APPLY TO ELECTRICITY SOLD TO THE CUSTOMER DURING THAT PORTION  
18 OF THE YEAR BEFORE THE STANDARD BECAME APPLICABLE.

19 (2) A RENEWABLE ENERGY PORTFOLIO STANDARD MAY NOT APPLY TO  
20 ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER:

21 (I) IN EXCESS OF 300,000,000 KILOWATT-HOURS OF INDUSTRIAL  
22 PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR;

23 (II) TO RESIDENTIAL CUSTOMERS IN A REGION OF THE STATE IN  
24 WHICH ELECTRICITY PRICES FOR RESIDENTIAL CUSTOMERS ARE SUBJECT TO A  
25 FREEZE OR CAP CONTAINED IN A SETTLEMENT AGREEMENT ENTERED INTO UNDER  
26 § 7-505 OF THIS TITLE UNTIL THE FREEZE OR CAP HAS EXPIRED; OR

27 (III) TO A CUSTOMER SERVED BY AN ELECTRIC COOPERATIVE  
28 UNDER AN ELECTRICITY SUPPLIER PURCHASE AGREEMENT THAT EXISTED ON  
29 OCTOBER 1, 2004, UNTIL THE EXPIRATION OF THE AGREEMENT.

30 (B) THE RENEWABLE ENERGY PORTFOLIO STANDARD SHALL BE AS FOLLOWS:

31 (1) IN 2006, 1% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
32 2 RENEWABLE SOURCES;

33 (2) IN 2007, ~~4.5~~ 1% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
34 TIER 2 RENEWABLE SOURCES;

35 (3) IN 2008, 2% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
36 2 RENEWABLE SOURCES;

1 (4) IN 2009, ~~2.5~~ 2% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
2 TIER 2 RENEWABLE SOURCES;

3 (5) IN 2010, 3% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
4 2 RENEWABLE SOURCES;

5 (6) IN 2011, ~~3.5~~ 3% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
6 TIER 2 RENEWABLE SOURCES;

7 (7) IN 2012, 4% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
8 2 RENEWABLE SOURCES;

9 (8) IN 2013, ~~4.5~~ 4% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
10 TIER 2 RENEWABLE SOURCES;

11 (9) IN 2014, 5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
12 2 RENEWABLE SOURCES;

13 (10) IN 2015, ~~5.5~~ 5% FROM TIER 1 RENEWABLE SOURCES AND ~~2%~~ 2.5%  
14 FROM TIER 2 RENEWABLE SOURCES;

15 (11) IN 2016, 6% FROM TIER 1 RENEWABLE SOURCES AND ~~4.5%~~ 2.5% FROM  
16 TIER 2 RENEWABLE SOURCES;

17 (12) IN 2017, ~~6.5~~ 6% FROM TIER 1 RENEWABLE SOURCES AND ~~1%~~ 2.5%  
18 FROM TIER 2 RENEWABLE SOURCES;

19 (13) IN 2018, 7% FROM TIER 1 RENEWABLE SOURCES AND ~~0.5%~~ 2.5% FROM  
20 TIER 2 RENEWABLE SOURCES; AND

21 (14) IN 2019 AND LATER, 7.5% FROM TIER 1 RENEWABLE SOURCES AND 0%  
22 FROM TIER 2 RENEWABLE SOURCES.

23 (C) BEFORE CALCULATING THE NUMBER OF CREDITS REQUIRED TO MEET  
24 THE PERCENTAGES ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, AN  
25 ELECTRICITY SUPPLIER SHALL EXCLUDE FROM ITS TOTAL RETAIL ELECTRICITY  
26 SALES ALL RETAIL ELECTRICITY SALES DESCRIBED IN SUBSECTION (A)(2) OF THIS  
27 SECTION.

28 (D) SUBJECT TO SUBSECTIONS (A) AND (C) OF THIS SECTION, AN ELECTRICITY  
29 SUPPLIER SHALL MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD BY  
30 ACCUMULATING THE EQUIVALENT AMOUNT OF RENEWABLE ENERGY CREDITS THAT  
31 EQUAL THE PERCENTAGE REQUIRED UNDER THIS SECTION.

32 7-704.

33 (A) (1) ENERGY FROM A TIER 1 RENEWABLE SOURCE:

34 (I) IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE  
35 ENERGY PORTFOLIO STANDARD REGARDLESS OF WHEN THE GENERATING SYSTEM  
36 OR FACILITY WAS PLACED IN SERVICE; AND

1 (II) MAY BE APPLIED TO THE PERCENTAGE REQUIREMENTS OF THE  
2 STANDARD FOR EITHER TIER 1 RENEWABLE SOURCES OR TIER 2 RENEWABLE  
3 SOURCES.

4 (2) ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7-701(L)(8) OF  
5 THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY  
6 PORTFOLIO IF IT IS GENERATED AT A DAM THAT EXISTED AS OF JANUARY 1, 2004,  
7 EVEN IF A SYSTEM OR FACILITY THAT IS CAPABLE OF GENERATING ELECTRICITY DID  
8 NOT EXIST ON THAT DATE.

9 ~~(2)~~ (3) (I) ENERGY FROM A TIER 2 RENEWABLE SOURCE UNDER §  
10 7-701(M)(1) OR (3) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE  
11 RENEWABLE ENERGY PORTFOLIO STANDARD THROUGH 2018 IF IT IS GENERATED AT  
12 A SYSTEM OR FACILITY THAT EXISTED AND WAS OPERATIONAL AS OF JANUARY 1,  
13 2004, EVEN IF THE FACILITY OR SYSTEM WAS NOT CAPABLE OF GENERATING  
14 ELECTRICITY ON THAT DATE.

15 (II) ENERGY FROM A TIER 2 RENEWABLE SOURCE UNDER §  
16 7-701(M)(2) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE  
17 RENEWABLE ENERGY PORTFOLIO STANDARD REGARDLESS OF WHEN THE  
18 GENERATING SYSTEM WAS PLACED IN SERVICE.

19 (B) ON OR AFTER JANUARY 1, 2004, AN ELECTRICITY SUPPLIER MAY:

20 (1) RECEIVE RENEWABLE ENERGY CREDITS; AND

21 (2) ACCUMULATE RENEWABLE ENERGY CREDITS UNDER THIS  
22 SUBTITLE.

23 (C) AN ELECTRICITY SUPPLIER SHALL RECEIVE DOUBLE CREDIT TOWARD  
24 MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED  
25 FROM SOLAR ENERGY.

26 (D) (1) THIS SUBSECTION APPLIES ONLY TO A GENERATING FACILITY THAT  
27 IS PLACED IN SERVICE ON OR AFTER JANUARY 1, 2004.

28 (2) (I) ON OR BEFORE DECEMBER 31, 2005, AN ELECTRICITY SUPPLIER  
29 SHALL RECEIVE 120% CREDIT TOWARD MEETING THE RENEWABLE ENERGY  
30 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM WIND.

31 (II) AFTER DECEMBER 31, 2005, AND ON OR BEFORE DECEMBER 31,  
32 2008, AN ELECTRICITY SUPPLIER SHALL RECEIVE 110% CREDIT TOWARD MEETING  
33 THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED FROM  
34 WIND.

35 (3) ON OR BEFORE DECEMBER 31, 2008, AN ELECTRICITY SUPPLIER  
36 SHALL RECEIVE 110% CREDIT TOWARD MEETING THE RENEWABLE ENERGY  
37 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM METHANE UNDER ~~§ 7-701(D)(4)~~ §  
38 7-701(L)(4) OF THIS SUBTITLE.

1 ~~(E)~~ (1) AN ELECTRICITY SUPPLIER MAY NOT USE THE INCINERATION OF  
 2 SOLID WASTE TO MEET MORE THAN 20% OF THE STANDARD FOR TIER 2 RENEWABLE  
 3 SOURCES FOR A GIVEN YEAR.

4 ~~(2)~~ AFTER DECEMBER 31, 2012, AN ELECTRICITY SUPPLIER MAY NOT  
 5 RECEIVE A RENEWABLE ENERGY CREDIT FROM THE INCINERATION OF SOLID  
 6 WASTE.

7 ~~(F)~~ (E) AN ELECTRICITY SUPPLIER SHALL RECEIVE CREDIT TOWARD  
 8 MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ELECTRICITY  
 9 DERIVED FROM THE BIOMASS FRACTION OF BIOMASS CO-FIRED WITH OTHER  
 10 FUELS.

11 ~~(G)~~ (F) (1) IN THIS SUBSECTION, "CUSTOMER" MEANS:

12 (I) AN INDUSTRIAL ELECTRIC CUSTOMER THAT IS NOT ON  
 13 STANDARD OFFER SERVICE; OR

14 (II) A RENEWABLE ON-SITE GENERATOR.

15 (2) (I) A CUSTOMER MAY INDEPENDENTLY ACQUIRE RENEWABLE  
 16 ENERGY CREDITS TO SATISFY THE STANDARDS APPLICABLE TO THE CUSTOMER'S  
 17 LOAD, INCLUDING CREDITS CREATED BY A RENEWABLE ON-SITE GENERATOR.

18 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III)1 OF THIS  
 19 PARAGRAPH, THE CUSTOMER SHALL SURRENDER THE CREDITS NECESSARY TO  
 20 MEET THE STANDARD TO ITS ELECTRICITY SUPPLIER FOR INCLUSION IN THE  
 21 ELECTRICITY SUPPLIER'S COMPLIANCE REPORT UNDER § 7-705 OF THIS SUBTITLE.

22 (III) 1. CREDITS THAT A CUSTOMER SURRENDERS TO ITS  
 23 ELECTRICITY SUPPLIER TO MEET THE STANDARD AND THAT THE ELECTRICITY  
 24 SUPPLIER RELIES ON IN SUBMITTING ITS COMPLIANCE REPORT MAY NOT BE RESOLD  
 25 OR RETRANSFERRED BY THE CUSTOMER OR BY THE ELECTRICITY SUPPLIER.

26 2. THE CUSTOMER MAY RETAIN OR TRANSFER ANY CREDITS  
 27 IN EXCESS OF THE AMOUNT NEEDED TO SATISFY THE STANDARD FOR THE  
 28 CUSTOMER'S LOAD.

29 (IV) A CUSTOMER WHO SURRENDERS CREDITS UNDER THIS  
 30 SUBSECTION RETAINS ALL RIGHTS AND TITLE TO ANY ENVIRONMENTAL OR OTHER  
 31 ATTRIBUTES ASSOCIATED WITH THE CREDITS, INCLUDING EMISSION REDUCTIONS  
 32 OR RELATED ALLOWANCES.

33 (3) A RENEWABLE ON-SITE GENERATOR SHALL RECEIVE CREDIT FOR  
 34 THE PORTION OF ITS ON-SITE GENERATION FROM A TIER 1 RENEWABLE SOURCE OR  
 35 A TIER 2 RENEWABLE SOURCE THAT DISPLACES THE PURCHASE OF ELECTRICITY BY  
 36 THE RENEWABLE ON-SITE GENERATOR FROM THE GRID.

1           ~~(3)~~    (4)     A CUSTOMER THAT SATISFIES THE STANDARD APPLICABLE TO  
2 THE CUSTOMER'S LOAD UNDER THIS SUBSECTION MAY NOT BE REQUIRED TO  
3 CONTRIBUTE TO A COMPLIANCE FEE RECOVERED UNDER § 7-706 OF THIS SUBTITLE.

4           ~~(4)~~    (5)     THE COMMISSION SHALL ADOPT REGULATIONS GOVERNING  
5 THE APPLICATION AND TRANSFER OF CREDITS UNDER THIS SUBSECTION  
6 CONSISTENT WITH FEDERAL LAW.

7    ~~(H)~~    (G)     (1)     IN ORDER TO CREATE A RENEWABLE ENERGY CREDIT, A TIER 1  
8 RENEWABLE SOURCE OR TIER 2 RENEWABLE SOURCE MUST SUBSTANTIALLY  
9 COMPLY WITH ALL APPLICABLE ENVIRONMENTAL AND ADMINISTRATIVE  
10 REQUIREMENTS, INCLUDING AIR QUALITY, WATER QUALITY, SOLID WASTE, AND  
11 RIGHT-TO-KNOW PROVISIONS, PERMIT CONDITIONS, AND ADMINISTRATIVE ORDERS.

12           (2)     (I)     THIS PARAGRAPH APPLIES TO TIER 2 RENEWABLE SOURCES  
13 THAT INCINERATE SOLID WASTE.

14                   (II)    AT LEAST 80% OF THE SOLID WASTE INCINERATED AT A TIER 2  
15 RENEWABLE SOURCE FACILITY SHALL BE COLLECTED FROM:

16                           1.     FOR AREAS IN MARYLAND, JURISDICTIONS THAT ACHIEVE  
17 THE RECYCLING RATES REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE;  
18 AND

19                           2.     FOR OTHER STATES, JURISDICTIONS FOR WHICH THE  
20 ELECTRICITY SUPPLIER DEMONSTRATES RECYCLING SUBSTANTIALLY COMPARABLE  
21 TO THAT REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE, IN  
22 ACCORDANCE WITH REGULATIONS OF THE COMMISSION.

23                   (III)    AN ELECTRICITY SUPPLIER MAY REPORT CREDITS RECEIVED  
24 UNDER THIS PARAGRAPH BASED ON COMPLIANCE BY THE FACILITY WITH THE  
25 PERCENTAGE REQUIREMENT OF SUBPARAGRAPH (II) OF THIS PARAGRAPH DURING  
26 THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE ELECTRICITY  
27 SUPPLIER RECEIVES THE CREDIT TO APPLY TO THE STANDARD.

28 7-705.

29    (A)     EACH ELECTRICITY SUPPLIER SHALL SUBMIT A REPORT TO THE  
30 COMMISSION EACH YEAR IN A FORM AND BY A DATE SPECIFIED BY THE COMMISSION  
31 THAT:

32           (1)     DEMONSTRATES THAT THE ELECTRICITY SUPPLIER HAS COMPLIED  
33 WITH THE APPLICABLE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703  
34 OF THIS SUBTITLE AND INCLUDES THE SUBMISSION OF THE REQUIRED AMOUNT OF  
35 RENEWABLE ENERGY CREDITS; OR

36           (2)     DEMONSTRATES THE AMOUNT OF ELECTRICITY SALES BY WHICH  
37 THE ELECTRICITY SUPPLIER FAILED TO MEET THE APPLICABLE RENEWABLE  
38 ENERGY PORTFOLIO STANDARD.

1 (B) IF AN ELECTRICITY SUPPLIER FAILS TO COMPLY WITH THE RENEWABLE  
 2 ENERGY PORTFOLIO STANDARD FOR THE APPLICABLE YEAR, THE ELECTRICITY  
 3 SUPPLIER SHALL PAY INTO THE MARYLAND RENEWABLE ENERGY FUND  
 4 ESTABLISHED UNDER ~~§ 7-706~~ § 7-707 OF THIS SUBTITLE ~~A COMPLIANCE FEE OF:~~

5 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
 6 COMPLIANCE FEE OF:

7 (I) 2 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
 8 REQUIRED TIER 1 RENEWABLE SOURCES; AND

9 (II) 1.5 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
 10 REQUIRED TIER 2 RENEWABLE SOURCES; OR

11 (2) FOR INDUSTRIAL PROCESS LOAD:

12 ~~(I) 1 CENT FOR EACH KILOWATT HOUR OF SHORTFALL FROM~~  
 13 ~~REQUIRED TIER 1 RENEWABLE SOURCES; AND~~

14 ~~(II) 0.75 CENT FOR EACH KILOWATT HOUR OF SHORTFALL FROM~~  
 15 ~~REQUIRED TIER 2 RENEWABLE SOURCES.~~

16 (I) FOR EACH KILOWATT-HOUR OF SHORTFALL FROM REQUIRED  
 17 TIER 1 RENEWABLE SOURCES, A COMPLIANCE FEE OF:

18 1. 0.8 CENTS IN 2006, 2007, AND 2008;

19 2. 0.5 CENTS IN 2009 AND 2010;

20 3. 0.4 CENTS IN 2011 AND 2012;

21 4. 0.3 CENTS IN 2013 AND 2014;

22 5. 0.25 CENTS IN 2015 AND 2016; AND

23 6. 0.2 CENTS IN 2017 AND LATER; AND

24 (II) NOTHING FOR ANY SHORTFALL FROM REQUIRED TIER 2  
 25 RENEWABLE SOURCES.

26 (C) THE COMMISSION MAY ALLOW AN ELECTRICITY SUPPLIER TO SUBMIT  
 27 THE REPORT REQUIRED UNDER § 7-505(B)(4) OF THIS TITLE TO DEMONSTRATE  
 28 COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD.

29 (D) AN AGGREGATOR OR BROKER WHO ASSISTS AN ELECTRICITY CUSTOMER  
 30 IN PURCHASING ELECTRICITY BUT WHO DOES NOT SUPPLY THE ELECTRICITY OR  
 31 TAKE TITLE TO OR OWNERSHIP OF THE ELECTRICITY MAY REQUIRE THE  
 32 ELECTRICITY SUPPLIER ~~FROM WHICH THE AGGREGATOR OR BROKER PROCURES~~  
 33 WHO SUPPLIES THE ELECTRICITY, AND WHICH IS NOT ITSELF ACTING AS AN  
 34 ~~AGGREGATOR OR BROKER IN THE PROCUREMENT,~~ TO DEMONSTRATE COMPLIANCE  
 35 WITH THIS SUBTITLE.

1 7-706.

2 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN  
3 ACCORDANCE WITH THE OBLIGATION TO PROVIDE STANDARD OFFER SERVICE  
4 THROUGH THE BID PROCESS CREATED UNDER § 7-510 OF THIS TITLE, THE  
5 COMMISSION SHALL ALLOW AN ELECTRICITY SUPPLIER TO RECOVER ACTUAL  
6 DOLLAR-FOR-DOLLAR COSTS INCURRED, INCLUDING A COMPLIANCE FEE UNDER §  
7 7-705 OF THIS SUBTITLE, IN COMPLYING WITH A STATE-MANDATED RENEWABLE  
8 ENERGY PORTFOLIO STANDARD.

9 (2) IN ACCORDANCE WITH THE PHASE II SETTLEMENT AGREEMENT  
10 APPROVED BY THE COMMISSION IN ORDER NO. 78710 IN CASE NO. 8908 ON  
11 SEPTEMBER 30, 2003, FOR ANY FULL-SERVICE AGREEMENT EXECUTED BEFORE THE  
12 RENEWABLE ENERGY STANDARD UNDER THIS SUBTITLE APPLIES TO AN ELECTRIC  
13 COMPANY, THE ELECTRIC COMPANY AND ITS WHOLESALE ELECTRICITY SUPPLIERS  
14 MAY PASS THROUGH THEIR COMMERCIALY REASONABLE ADDITIONAL COSTS, IF  
15 ANY, ASSOCIATED WITH COMPLYING WITH THE STANDARD, THROUGH THE END OF  
16 THE YEAR OF STANDARD OFFER SERVICE IN WHICH THE REQUIREMENT TOOK  
17 EFFECT.

18 (B) AN ELECTRICITY SUPPLIER MAY RECOVER A COMPLIANCE FEE IF:

19 (1) THE PAYMENT OF A COMPLIANCE FEE IS THE LEAST-COST MEASURE  
20 TO CUSTOMERS AS COMPARED TO THE PURCHASE OF TIER 1 RENEWABLE SOURCES  
21 TO COMPLY WITH A RENEWABLE ENERGY PORTFOLIO STANDARD;

22 (2) THERE ARE INSUFFICIENT TIER 1 RENEWABLE SOURCES AVAILABLE  
23 FOR THE ELECTRICITY SUPPLIER TO COMPLY WITH A RENEWABLE ENERGY  
24 PORTFOLIO STANDARD; OR

25 (3) A WHOLESALE ELECTRICITY SUPPLIER DEFAULTS OR OTHERWISE  
26 FAILS TO DELIVER RENEWABLE ENERGY CREDITS UNDER A SUPPLY CONTRACT  
27 APPROVED BY THE COMMISSION.

28 (C) ANY COST RECOVERY UNDER THIS SECTION:

29 (1) FOR ALL ELECTRICITY SUPPLIERS, MAY BE IN THE FORM OF A  
30 GENERATION SURCHARGE PAYABLE BY ALL CURRENT ELECTRICITY SUPPLY  
31 CUSTOMERS, EXCEPT AS OTHERWISE PROVIDED IN § 7-704(F) OF THIS SUBTITLE;

32 (2) SHALL BE DISCLOSED TO CUSTOMERS IN A MANNER TO BE  
33 DETERMINED BY THE COMMISSION; AND

34 (3) MAY NOT INCLUDE THE COSTS FOR A POWER PURCHASE CONTRACT  
35 UNDER THE FEDERAL PUBLIC UTILITY REGULATORY POLICY ACT CONTEMPLATED IN  
36 RATES OR RESTRUCTURING PROCEEDINGS.

37 7-707.

38 (A) THERE IS A MARYLAND RENEWABLE ENERGY FUND.

1 (B) THE PURPOSE OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT OF  
2 RESOURCES TO GENERATE RENEWABLE ENERGY IN THE STATE.

3 (C) SUBJECT TO OVERSIGHT BY THE COMMISSION, THE ADMINISTRATION  
4 SHALL ADMINISTER THE FUND.

5 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT  
6 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE  
8 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

9 (E) THE FUND CONSISTS OF:

10 (1) COMPLIANCE FEES PAID UNDER § 7-705 OF THIS SUBTITLE;

11 (2) PAYMENTS RECEIVED IN REPAYMENT OF A LOAN;

12 (3) INVESTMENT EARNINGS OF THE FUND; AND

13 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE  
14 BENEFIT OF THE FUND.

15 (F) (1) THE FUND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO  
16 SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE ENERGY SOURCES IN THE  
17 STATE.

18 (2) BY REGULATION THE COMMISSION SHALL ADOPT ELIGIBILITY  
19 CRITERIA FOR PROJECTS SUPPORTED BY THE FUND.

20 (3) (I) THE ADMINISTRATION SHALL RECEIVE AND REVIEW  
21 APPLICATIONS FOR LOANS AND GRANTS FOR ELIGIBLE PROJECTS.

22 (II) THE ADMINISTRATION SHALL APPROVE OR DISAPPROVE  
23 APPLICATIONS FOR LOANS AND GRANTS FROM THE FUND.

24 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE  
25 COMMISSION MAY ALLOW THE USE OF MONEY OF THE FUND FOR ADMINISTRATIVE  
26 EXPENSES RELATED TO THE FUND AND PROJECT REVIEW AND OVERSIGHT.

27 (II) THE ADMINISTRATION AND THE COMMISSION MAY NOT SPEND  
28 MORE THAN 10% OF THE FUNDS PLACED IN THE FUND FOR ADMINISTRATIVE  
29 EXPENSES.

30 (G) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE  
31 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

32 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO  
33 THE FUND.

1 7-708.

2 (A) (1) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A  
3 MARKET-BASED RENEWABLE ELECTRICITY TRADING SYSTEM TO FACILITATE THE  
4 CREATION AND TRANSFER OF RENEWABLE ENERGY CREDITS.

5 (2) TO THE EXTENT PRACTICABLE, THE TRADING SYSTEM SHALL BE  
6 CONSISTENT WITH AND OPERATE IN CONJUNCTION WITH THE TRADING SYSTEM  
7 DEVELOPED BY PJM INTERCONNECTION, INC., IF AVAILABLE.

8 (3) THE COMMISSION MAY CONTRACT WITH A FOR-PROFIT OR A  
9 NONPROFIT ENTITY TO ASSIST IN THE ADMINISTRATION OF THE ELECTRICITY  
10 TRADING SYSTEM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

11 (B) (1) THE SYSTEM SHALL INCLUDE A REGISTRY OF PERTINENT  
12 INFORMATION REGARDING ALL:

13 (I) AVAILABLE RENEWABLE ENERGY CREDITS; AND

14 (II) RENEWABLE ENERGY CREDIT TRANSACTIONS AMONG  
15 ELECTRICITY SUPPLIERS IN THE STATE, INCLUDING:

16 1. THE CREATION AND APPLICATION OF RENEWABLE  
17 ENERGY CREDITS;

18 2. THE NUMBER OF RENEWABLE ENERGY CREDITS SOLD OR  
19 TRANSFERRED; AND

20 3. THE PRICE PAID FOR THE SALE OR TRANSFER OF  
21 RENEWABLE ENERGY CREDITS.

22 (2) (I) THE REGISTRY SHALL PROVIDE CURRENT INFORMATION TO  
23 ELECTRICITY SUPPLIERS AND THE PUBLIC ON THE STATUS OF RENEWABLE ENERGY  
24 CREDITS CREATED, SOLD, OR TRANSFERRED IN THE STATE.

25 (II) REGISTRY INFORMATION SHALL BE AVAILABLE BY COMPUTER  
26 NETWORK ACCESS THROUGH THE INTERNET.

27 7-709.

28 (A) AN ELECTRICITY SUPPLIER MAY USE ACCUMULATED RENEWABLE  
29 ENERGY CREDITS TO MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD,  
30 INCLUDING CREDITS CREATED BY A RENEWABLE ON-SITE GENERATOR.

31 (B) A RENEWABLE ENERGY CREDIT MAY BE SOLD OR OTHERWISE  
32 TRANSFERRED.

33 (C) (1) EXCEPT AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS  
34 SUBSECTION, A RENEWABLE ENERGY CREDIT SHALL EXIST FOR 3 YEARS FROM THE  
35 DATE CREATED.

1           (2)     A RENEWABLE ENERGY CREDIT MAY BE DIMINISHED OR  
2 EXTINGUISHED BEFORE THE EXPIRATION OF 3 YEARS BY:

3                   (I)     THE ELECTRICITY SUPPLIER THAT RECEIVED THE CREDIT;

4                   (II)    A NONAFFILIATED ENTITY OF THE ELECTRICITY SUPPLIER:

5                           1.     THAT PURCHASED THE CREDIT FROM THE ELECTRICITY  
6 SUPPLIER RECEIVING THE CREDIT; OR

7                           2.     TO WHOM THE ELECTRICITY SUPPLIER OTHERWISE  
8 TRANSFERRED THE CREDIT; OR

9                   (III)   DEMONSTRATED NONCOMPLIANCE BY THE GENERATING  
10 FACILITY WITH THE REQUIREMENTS OF § 7-704(G) OF THIS SUBTITLE.

11   (D)     NOTWITHSTANDING SUBSECTION (C)(2)(III) OF THIS SECTION, AND ONLY  
12 IF THE DEMONSTRATED NONCOMPLIANCE DOES NOT RESULT IN ENVIRONMENTAL  
13 DEGRADATION, AN ELECTRICITY SUPPLIER THAT REASONABLY INCLUDES IN ITS  
14 ANNUAL REPORT UNDER § 7-705 OF THIS SUBTITLE A RENEWABLE ENERGY CREDIT  
15 THAT IS EXTINGUISHED FOR NONCOMPLIANCE WITH § 7-704(G)(1) OR (2) OF THIS  
16 SUBTITLE:

17                   (1)     MAY CONTINUE TO RELY ON THAT CREDIT FOR THAT YEAR; BUT

18                   (2)     FOR LATER YEARS MUST:

19                           (I)     DEMONSTRATE A RETURN TO COMPLIANCE OF THE  
20 GENERATING FACILITY UNDER § 7-704(G) OF THIS SUBTITLE; OR

21                           (II)    REPLACE THE CREDIT WITH A RENEWABLE ENERGY CREDIT  
22 FROM ANOTHER SOURCE.

23   (E)     THE COMMISSION BY REGULATION SHALL ESTABLISH REQUIREMENTS  
24 FOR DOCUMENTATION AND VERIFICATION OF RENEWABLE ENERGY CREDITS BY  
25 LICENSED ELECTRICITY SUPPLIERS AND OTHER GENERATORS THAT CREATE AND  
26 RECEIVE CREDITS FOR COMPLIANCE WITH THE STANDARDS FOR TIER 1 RENEWABLE  
27 SOURCES AND TIER 2 RENEWABLE SOURCES.

28 7-710.

29     THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE FEE ON A RENEWABLE  
30 ENERGY CREDIT TRANSACTION, BUT THE AMOUNT OF THE FEE MAY NOT EXCEED  
31 THE COMMISSION'S ACTUAL DIRECT COST OF PROCESSING THE TRANSACTION.

32 7-711.

33     THE COMMISSION HAS THE SAME POWER AND AUTHORITY WITH RESPECT TO  
34 AN ELECTRICITY SUPPLIER UNDER THIS SUBTITLE THAT THE COMMISSION HAS  
35 WITH RESPECT TO ANY PUBLIC SERVICE COMPANY UNDER THIS ARTICLE FOR THE

1 PURPOSES OF INVESTIGATING AND EXAMINING THE ELECTRICITY SUPPLIER TO  
2 DETERMINE COMPLIANCE WITH THIS SUBTITLE AND WITH OTHER APPLICABLE LAW.

3 7-712.

4 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE  
5 FEBRUARY 1 OF EACH YEAR THE COMMISSION SHALL REPORT TO THE GENERAL  
6 ASSEMBLY ON THE STATUS OF IMPLEMENTATION OF THIS SUBTITLE, INCLUDING  
7 THE AVAILABILITY OF TIER 1 RENEWABLE SOURCES, PROJECTS SUPPORTED BY THE  
8 FUND, AND OTHER PERTINENT INFORMATION.

9 7-713.

10 THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE  
11 PROVISIONS OF THIS SUBTITLE.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
13 read as follows:

14 **Article - Public Utility Companies**

15 7-516.

16 [(a) An electric company shall continue to purchase electricity under any  
17 contract in effect on January 1, 1999, with a renewable energy resource facility  
18 located in the State until the later of the expiration of the contract or the expiration or  
19 satisfaction of bonds existing on January 1, 1999, supporting the facility.

20 (b) An investor-owned electric company shall continue to provide at least the  
21 same percentage of electricity from available renewable energy resources, at a  
22 reasonably comparable cost, as the electric company provided in 1998.

23 (c) On or before February 1, 2000, the Commission, in consultation with the  
24 Maryland Energy Administration, shall report to the Governor and, subject to §  
25 2-1246 of the State Government Article, to the General Assembly on the feasibility of  
26 requiring a renewables portfolio standard, including the feasibility and structure of a  
27 two-tiered standard, and the estimated costs and benefits of establishing this  
28 requirement.]

29 [(d) (A) (1) [(i) In recognition of the potential environmental impacts of  
30 restructuring the electric industry, it is the intent of the General Assembly to  
31 minimize the effects of electric restructuring on the environment.

32 [(ii) (2) Electric companies in Maryland shall conduct a study that  
33 tracks shifts in generation and emissions as a result of restructuring the electric  
34 industry.

35 [(iii) (3) The study shall be submitted to the Department of the  
36 Environment and the Commission one year after the initial date of implementation of  
37 customer choice.

1                    [(iv)]    (4)    Electric companies in Maryland shall update the study  
2 twice and submit each updated study to the Department of the Environment and the  
3 Commission on or before December 31, 2003 and on or before December 31, 2005.

4                    [(2)]    (B)    If, after review of the study required under paragraph (1) of this  
5 subsection, the Department of the Environment determines that the emissions levels  
6 impose a higher emission burden in Maryland, the Department of the Environment,  
7 in consultation with the Commission, shall study the appropriateness,  
8 constitutionality, and feasibility of establishing an air quality surcharge or other  
9 mechanism to protect Maryland's environment in connection with the  
10 implementation of customer choice of electricity suppliers.

11        SECTION 3. AND BE IT FURTHER ENACTED, That:

12        (a)        (1)        On or before October 1, 2004, the Public Service Commission shall  
13 establish a technical advisory group to develop recommendations on siting,  
14 operational, and monitoring criteria for wind-powered electricity generating facilities  
15 relating to avian and bat issues.

16                    (2)        The technical advisory group shall include the following members:

17                    (i)        two biologists who are professionally recognized for their  
18 expertise in avian issues and behavior, including one from the Department of Natural  
19 Resources;

20                    (ii)       two representatives of wind energy companies;

21                    (iii)      one representative of an electricity transmission company or  
22 other individual with interest and experience in siting and interconnection of  
23 electricity transmission facilities with generating facilities;

24                    (iv)       two representatives of environmental groups; and

25                    (v)        one representative of the Commission.

26                    (3)        The technical advisory group shall study and make recommendations  
27 on:

28                    (i)        standards that will avoid or minimize impacts on birds and bats  
29 from the construction and operation of wind-energy generating facilities;

30                    (ii)       a tiered system of standards that vary with the size of the  
31 wind-energy generating facility and the associated generating capacity;

32                    (iii)      additional assessments of avian and bat populations and  
33 behavior that may be needed before issuance of a certificate of public convenience and  
34 necessity beyond those needed for other types of generating facilities, if any;

35                    (iv)       additional monitoring studies of avian and bat populations and  
36 behavior during and after construction of a facility; and

1 (v) mitigation appropriate to address any impact on avian and bat  
2 populations above a threshold level to be included in the certificate of public  
3 convenience and necessity for a wind-powered electricity generating facility.

4 (4) In conducting its study, the technical advisory group shall consider  
5 guidelines for siting, operation, and avoidance and mitigation of avian impacts under  
6 development by the United States Fish and Wildlife Service and by other states.

7 (5) The Power Plant Research Program of the Department of Natural  
8 Resources shall assist the technical advisory group in its study and the development  
9 of recommendations.

10 (6) On or before June 1, 2005, the technical advisory group shall report  
11 its recommendations to the Commission.

12 (7) (i) On or before July 1, 2006, the Commission shall adopt  
13 regulations for wind-powered electricity generating facility siting taking into  
14 consideration the recommendations of the technical advisory group.

15 (ii) The regulations may not apply to any wind-powered electricity  
16 generating facility for which an application for a certificate of public convenience and  
17 necessity has been submitted to the Commission before the effective date of the  
18 regulations.

19 (b) The General Assembly strongly encourages:

20 (1) the Public Service Commission to exempt from siting, operational,  
21 and monitoring requirements wind-energy generating facilities that involve only  
22 small turbines for residential, agricultural, and small business use, including  
23 facilities installed for net-energy metering;

24 (2) developers of commercial wind-energy generating facilities that  
25 involve more than 10 turbines to:

26 (i) conduct at least 1 year of site evaluation, using state-of-the-art  
27 techniques, both for the potential for direct mortality of avian species and for impacts  
28 from fragmentation and loss of forest and other affected habitat; and

29 (ii) provide the results of the evaluation to the Commission for  
30 review in connection with proceedings for the issuance of a certificate of public  
31 convenience and necessity;

32 (3) developers of commercial wind-energy generating facilities that  
33 involve 10 or fewer turbines to:

34 (i) conduct a shorter-term site evaluation both for the potential for  
35 direct mortality of avian species and for impacts from fragmentation and loss of forest  
36 and other affected habitat; and

1 (ii) provide the results of the evaluation to the Commission for  
2 review in connection with proceedings for the issuance of a certificate of public  
3 convenience and necessity; and

4 (4) developers of all commercial wind-energy generating facilities to:

5 (i) conduct post-construction avian mortality studies of the impact  
6 of facility operation; and

7 (ii) provide copies to the Commission and, while it exists, to the  
8 technical advisory group.

9 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
10 Section 3 of this Act, on or before July 1, 2005, the Public Service Commission shall  
11 adopt regulations to implement this Act.

12 SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the  
13 General Assembly that the Public Service Commission recover the costs of  
14 establishing a market-based renewable electricity trading system under § 7-708 of  
15 the Public Utility Companies Article as enacted by this Act through its assessment  
16 under § 2-110 of the Public Utility Companies Article.

17 SECTION 6. AND BE IT FURTHER ENACTED, That:

18 (a) The Office of Legislative Audits shall conduct a performance audit of the  
19 Maryland Renewable Energy Fund which includes, for each year since the creation of  
20 the Fund, an assessment of:

21 (1) the amount of funds received in the Fund;

22 (2) the uses of the funds; and

23 (3) the administrative expenses related to the Fund for project review  
24 and oversight.

25 (b) The Office shall report the results of the audit to the General Assembly, in  
26 accordance with § 2-1246 of the State Government Article, on or before December 1,  
27 2009.

28 (c) The cost of the performance audit shall be included in the administrative  
29 expenses under § 7-707(f)(4) of the Public Utility Companies Article, as enacted by  
30 this Act.

31 SECTION 7. AND BE IT FURTHER ENACTED, That:

32 (a) The General Assembly acknowledges that significant investments have  
33 been made in the utilization of poultry litter in alternative and beneficial ways, such  
34 as poultry litter pelletizing ~~plans~~ plants, before enactment of this Act, and it is the  
35 intent of the General Assembly that the private sector continue to find creative and

1 innovative ways in which to utilize poultry litter that are consistent with and  
2 responsive to the purposes of this Act.

3 (b) To the extent that existing and future State financial assistance programs  
4 can help facilitate ~~this undertaking~~ the goals specified in subsection (a) of this  
5 section, the General Assembly encourages partnerships that lead to environmentally  
6 friendly and economically advantageous initiatives.

7 (c) To help safeguard previous private sector investment efforts and yet  
8 facilitate future private sector investment efforts consistent with the purposes of this  
9 Act, the General Assembly encourages the Maryland Energy Administration, in  
10 cooperation with the Maryland Department of Agriculture, to enhance the State's  
11 system of monitoring the production and volume of poultry litter in order to realize, to  
12 the extent possible, a balance between existing demands and anticipated demands for  
13 poultry litter to help ensure:

14 (1) that existing projects have sufficient quantities of poultry litter to  
15 meet reasonably projected demands and to be economically viable; and

16 (2) that future projects, such as power generation, have sufficient  
17 quantities of poultry litter in order to become economically viable.

18 SECTION 8. AND BE IT FURTHER ENACTED, That, on or before December 1,  
19 2009, the Public Service Commission shall provide a status report to the Governor  
20 and the General Assembly, subject to § 2-1246 of the State Government Article, which  
21 includes a review of the implementation of this Act, the availability and development  
22 of each type of Tier 1 renewable energy source, the impact on the price of Tier 1  
23 renewable energy sources, the amount of compliance fees paid by electricity suppliers  
24 each year for noncompliance with Tier 1 and Tier 2 renewable energy sources, and the  
25 use of these compliance fees to support the creation of new Tier 1 renewable energy  
26 sources.

27 SECTION 9. AND BE IT FURTHER ENACTED, That the Public Service  
28 Commission shall:

29 (1) on or before January 1, 2016, commence a review of the  
30 implementation and the environmental and economic impacts of the renewable  
31 portfolio standard enacted by this Act, including the impacts of Tier 2 renewable  
32 sources;

33 (2) in the course of its review, consult with appropriate scientific,  
34 economic, and environmental resources, and with affected communities of interest;

35 (3) develop recommendations concerning the continuation of the  
36 renewable portfolio standard for Tier 1 and Tier 2 renewable sources, including the  
37 classification of sources in distinct tiers, any recommended alteration to the tier  
38 system, and whether the tiers should be continued and, if so, at what percentages;  
39 and

1           (4)       on or before January 1, 2017, report its recommendations to the  
2 Governor and the General Assembly, subject to § 2-1246 of the State Government  
3 Article.

4       SECTION ~~5~~ 10. AND BE IT FURTHER ENACTED, That Section 2 of this Act  
5 shall take effect January 1, 2006.

6       SECTION ~~6~~ 11. AND BE IT FURTHER ENACTED, That, except as provided in  
7 Section ~~5~~ 10 of this Act, this Act shall take effect July 1, 2004.